


MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

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INTEROFFICE COMMUNICATION

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TO: James Goodheart, Senior Policy Advisor, Executive Division  
Harold R. Fitch, Chief, Office of Oil, Gas and Minerals

FROM: Joe Maki, Mine Project Coordinator, Office of Oil, Gas and Minerals 

DATE: October 11, 2016

SUBJECT: Michigan Department of Environmental Quality (MDEQ) engagement with Native American Tribes regarding Aquila Resources Back Forty Mine Project.

**Background**

The Back Forty Mine Project is located in Lake Township, Menominee County in close proximity of the Menominee River which borders Wisconsin. Historically, the land at the project has been managed for timber production, and adjacent lands have seasonal and permanent homes. The project area encompasses both private and state land and minerals.

Exploration drilling at the Back Forty Project began in early 2001 by Mineral Processing Corporation (MPC), which ultimately resulted in the discovery of a volcanogenic massive sulfide deposit (VMS). Subsequent drilling totalling nearly 300,000 feet has defined a significant zinc-gold-copper-silver ore body. During all phases of exploration, the MDEQ and Michigan Department of Natural Resources (MDNR) have conducted multiple inspections assuring compliance with applicable environmental laws and land use and mineral lease requirements.

Following the initial discovery, MPC continued exploration drilling and ground geophysical assessments intermittently. In 2006, Aquila Resources Corporation (the Company) became the public reporting issuer with focus on raising financing and continuing the early stages of mineral exploration for the Back Forty Mine Project. In addition to the exploration activities, the Company implemented an environmental baseline study in 2007 in preparation for mine permitting. The study was designed to meet Michigan's Nonferrous Metallic Mining Regulations, Part 632. During the baseline study, MDEQ staff periodically met with the company to provide guidance with interpreting Part 632 requirements.

Starting in approximately 2010, Hudbay Minerals and the Company formed a partnership, and began evaluating the deposit and surface site more seriously for a potential mine. At that time, it became apparent the company was prepared to move into an advanced phase of exploration. Therefore, Michigan's State Historical

Preservation Office (SHPO) required all future drilling on state land to include an archeological survey due to the proximity of activity to documented archeological sites.

In 2010, the company invested significant money to begin conducting environmental and archeological surveys in anticipation of a potential mine permit application. At the recommendation of the State Archeologist, the company reached out to Native American Tribes, including the Menominee Tribe in Wisconsin for guidance on archeological surveys.

The company verbally informed the MDEQ in 2011 of their intent to begin developing a Mine Permit Application. The MDEQ then formed a Mining Team in anticipation of permit applications.

Then in July 2012, Hudbay Minerals announced that they were suspending operations at the Back Forty Mine Project including pursuance of a Mine Permit.

In 2013, the Company began further evaluation of the project, including additional exploration drilling, and environmental evaluations. Then on June 8, 2015, the MDEQ received a letter of intent from the Company to apply for a Mining Permit in the next 6 to 8 months.

### **MDEQ Outreach to Native American Tribes**

Following the Company's letter of intent, the MDEQ reached out to all Michigan tribes, identified in the *December 9, 2002, Government to Government Accord between the State of Michigan and the Federally Recognized Indian Tribes in the State of Michigan*, and the Menominee Indian Tribe of Wisconsin (the Menominee). We informed the tribes of the potential application, and invited them to participate in a Scoping Environmental Impact Assessment (SEIA) along with the Environmental Protection Agency (EPA), MDEQ, and the Company. The intent of this meeting was to bring all government agencies together to hear directly from the company about their proposal, and provide feedback on what issues the agencies may have. The MDEQ received comments from the Menominee on November 4, 2015, outlining what they would like to see addressed in the Environmental Impact Assessment (EIA). Subsequent emails and phone calls took place between MDEQ and the Menominee providing updates on the process and answering questions.

On November 8, 2015, the MDEQ received an application for a Mine Permit from the Company for their Back Forty Mine Project. The MDEQ informed all Michigan tribes and the Menominee tribe of the submittal and also informed them that the MDEQ will hold a public information meeting on January 5, 2016, in Stephenson, Michigan.

On January 26, 2016, the Menominee sent a letter addressed to the MDEQ and the Company requesting the MODFLOW2000 groundwater model used in the application.

I phoned the Menominee to discuss the nature of the request, and informed them that the MDEQ did not have the actual model but had all the input parameters and output files that were included in the original application. The Menominee informed me that they did not have anyone knowledgeable in groundwater modeling so I suggested a meeting with our hydrogeologist. The Menominee agreed to coordinate the meeting. After nearly two months with no reply, I felt obligated to respond in a formal letter dated March 23, 2016.

The letter informed them that the request had been shared with our hydrogeologist, and he informed us that he has all the modeling information necessary to conduct a thorough review of the hydrogeological conditions and predictions at the proposed mine site. The MDEQ would still be willing to have a meeting with representatives of the Menominee to discuss the request or any other concerns that they may have. Then the Menominee, under the signature of their new Chairperson, submitted a response to the MDEQ March 23, 2016, letter reiterating their original request for the MODFLOW2000 model, of which the MDEQ never had.

In addition to the above correspondence, the Menominee provided the MDEQ with more detailed comments on the application in a letter dated February 16, 2016.

In response to all of the Menominee's comments, the MDEQ suggested that a meeting be held at the Menominee Reservation to discuss their concerns. The meeting was held at the Casino on the Menominee Reservation on May 26, 2016. The majority of the meeting revolved around their request for the MODFLOW2000 model and archeological resources at the proposed site.

We explained to the Menominee that the MDEQ does not rely solely on modeling since there is always a degree of uncertainty, but use modeling inputs and out puts as one of many tools in evaluating groundwater conditions and potential impacts. In fact, the MDEQ relies more on actual onsite data, such as core samples, well data, hydrologic testing, and geology.

The Menominee also expressed concerns over the methodology used to carry out the archeological studies. They asserted that the methods they employ are more representative of their tribal traditions, and suggested that I present their process to the Company. I agreed to pass on guidance documents to the Company and Michigan's State Archeologist that outline how the Menominee conducts cultural surveys. The document that was provided to me is titled GUIDE FOR PUBLIC ARCHEOLOGY IN WISCONSIN. I passed the document along to both parties for their consideration. I also agreed to coordinate a meeting between the Menominee and our State Archeologist. Unfortunately, I failed to remember to arrange the meeting, and the Menominee sent a letter directly the State Archeologist dated September 12, 2016, requesting the meeting.

Following the receipt of the letter, I promptly coordinated a meeting between the Menominee, myself, and the State Archeologist. The meeting was held in Stephenson, Michigan on September 29, 2016. At the meeting, the archeological survey conducted by the Company was discussed, as well as the Company's proposed Unanticipated Discovery Plan regarding cultural resources. After much discussion, the archeologist representing the Menominee suggested a process for addressing unanticipated discoveries of cultural resources. The Menominee Chairperson said their Plan A is to stop the mine, but is open to providing the MDEQ and State Archeologist with language to be added in the mine permit for unanticipated discoveries of cultural resources.

In addition, the Menominee requested that I attend a video presentation created by the high school students about the Back Forty Mine Project, and participate in a panel discussion after. I agreed, and attended the presentation on August 15, 2016.

cc: Dave Nyberg, Governor's UP Office  
Lynn Fiedler, MDEQ  
Michael Shore, MDEQ  
Steve Casey, MDEQ  
Ginny Pennala, MDEQ